



University of Hawaii at Manoa

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Office of the Director

RL:0366

HB 583, HD 2, SD 1 RELATING TO LITTER CONTROL

Statement for
Senate Committee on Judiciary
Public Hearing, 27 March 1979

By
Doak C. Cox
Environmental Center

HB 583, HD 2, SD 1 would amend present laws regarding litter control. This statement on the bill does not reflect an institutional position of the University.

As indicated in the attached statement on HB 583, HD 2 (Env. Ctr. RL:0359), the bill is primarily a useful housekeeping measure. We understand that SD 2 of HB 583 differs from HD 2 to the extent that certain provisions have been added to cope with the problem of roadside dumping of trash. For reasons indicated in the attached statement, we suggest that your committee consider two additional revisions:

1. To make both the litterers and the owners responsible for the promiscuous disposal of litter on private land if the disposal is with the consent of the owners of the land.
2. To delete the prescribed minimum penalty.



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RL:0359

HB 583, HD 2 RELATING TO LITTER CONTROL

Statement for
House Committee on
Ecology and Environmental Protection
Public Hearing, 19 March 1979

By
Doak C. Cox
Environmental Center

HB 583, HD 2 would amend HRS 339-1, 339-4, 339-8 and 291C-132—sections relating to the control of litter. This statement on the bill does not reflect an institutional position of the University.

In our comments on the original version of HB 583 (in Environmental Center statement RL:0330), we noted that it is primarily a useful housekeeping measure. We would like to add two further comments that are pertinent to both the original version and HD 2.

HB 583 would apply the restrictions on disposal of litter in Section 339-4(a) to disposals on private property. The original version and HD 2 would exempt disposals on private property from the restrictions if the disposals are with the consent of the owner (p. 4, ls. 5-6). We note that promiscuous littering on private property, whether with or without the consent of the owner, creates a public nuisance. The effect of the exemption will be to place the onus of littering on private property on the owner if the littering is done with his consent. We suggest that the onus should be both on the litterers and consenting owners.

All versions of HB 583 would replace the present \$10 upper limit to fines for littering by a lower limit of \$10 and an upper limit of \$250 (p. 5, ls. 12-13). We do not dispute the rationale for increasing the upper limit, but we suggest that the provision of the lower limit may be counter-productive. There is evidence that enforcement officers refrain from citing violators of laws and regulations if they consider that the magnitude of the violations do not justify whatever minimum penalties are prescribed. The judgement of the enforcement officers is thus substituted for the judgement of the courts. The requirement for a court appearance by a violator may be a more effective deterrent than a small fine, certainly the requirement that the violator be required to pick up litter is likely to be a more effective deterrent and if a court appearance is not required, the violator cannot be made to pick up litter. Yet even a court appearance is not required if a violator is not cited. We suggest that the minimum penalty provision be deleted.



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